

Mr. A. B. Salem (*Mattancheri*): What is the harm in giving this Mārayan a promotion to the Thiyya?

Mr. President: We have no objection to put that term. But it is by way of caution that we say that the word should be retained.

Clauses 5 to 46 put and carried

Clause 1 put and carried

Title and Preamble put and carried

Mr. V. K. Krishnankutty (*Ezhuvas-Trichur*): I move that the Bill may be taken up and finally passed tomorrow.

Mr. K. R. Viswambharan (*Ezhuvas-Talappalli*): I second it.

Motion put and carried

The Cochin Usurious Loans Act Amendment Bill*

Mr. T. V. Subramania Ayyar (*Nemmara*): I beg leave to present the report of the Select Committee on the Cochin Usurious Loans Act Amendment Bill. The Bill as originally drafted by me included a clause bringing in the co-operative societies also within its purview. In response to the opinion expressed in the Select Committee, we have unanimously agreed that that provision may be deleted. The principle that reduction of interest is necessary at the present time has been recognised by this House at the stage of the introduction of the Bill and no remark in that connection is necessary now. The main change that was made by the Select Committee is that instead of 6 per cent as at first proposed, it was raised to 7½ per cent. It was also thought expedient and proper that public companies should be given the benefit of being able to collect a greater rate of interest in view of the fact that Agricultural Relief Act has given them some special treatment. Barring these two changes, the Bill remains the same as it was introduced. I hope this will be a non-controversial subject and the motion will be passed unanimously by the House.

Motion put and carried

Mr. C. A. Kunjunni Raja (*Advocate-General*): Government cannot accept the Bill, and they are opposing clauses 2 and 3. The objection is that this Bill will have a retrospective effect if this amendment is allowed. To point out one instance, as the law now stands, interest above 12 per cent alone is considered usurious. No doubt, under the Agriculturist Relief Act, the rate of interest has

* Appendix III.

been varied in the case of public companies and in the case of other loans to agriculturists. Government cannot agree to a reduction of interest when it was allowed by the law passed by this House itself. If the amendment is allowed to stand, as it is, it will affect all transactions which have taken place before this Act comes into force and it will even be penal to stipulate in previous documents higher interest. On that ground Government is forced to oppose this provision.

Mr. C. R. Iyyunni (*Trichur-South*): Does it mean that in any document taken before the year 1112, or coming into force of this regulation, wherein the interest is more than ten annas, that will be reduced to ten annas?

Mr. C. A. Kunjunni Raja (*Advocate-General*): Yes. If there was a clause to the effect that this Bill will affect only transactions which will take place after the coming into force of this Act, then this difficulty may not arise. This Bill will affect transactions which have taken place before the date on which it comes into force.

Mr. C. R. Iyyunni (*Trichur-South*): That cannot be accepted.

Mr. T. V. Subramania Ayyar (*Nemmara*): I admit that is the implication; because it is introduced as an amendment which gives the power to the court to reopen transactions. The effect is that transactions according to the original Act will be affected by this. But even then, since we have recognised the principle in the passing of the Agricultural Relief Act that there is economic depression all-round and that a part of the body politic cannot remain without affecting the whole, I think there is good ground for the proposal and for the amendment just proposed. On that ground, the House will agree with me.

Mr. V. J. Mathai (*Planters*): There are some who think that there is no necessity for such an amendment.

Mr. C. R. Iyyunni (*Trichur-South*): The impression was that this will take effect from the date on which it comes into force. This has got retrospective effect. My idea was that transactions effected prior to the commencement of this Act will be regulated by the provisions of the documents themselves.

Mr. A. B. Salem (*Mattancheri*): Was this point considered by the Select Committee?

Mr. C. A. Kunjunni Raja (*Advocate-General*): No.

Mr. T. V. Subramania Ayyar (*Nemmara*): I wanted retrospective effect to be given and I mentioned it in the Objects and reasons and in one of the clauses of the Bill. The House was well

aware that I was going to move this motion. I thought the House has already approved the principles of the Bill. The Bill was referred to a Select Committee and its report is now presented. In fact, there was no opposition when leave was given to me for introducing this Bill. I hope the House will support me this time also.

Mr. M. K. Devassy (Adur): I want to make one submission. I too happened to be a member of the Select Committee. Somehow or other the point was not raised there. Now, if the House has no objection, it will be serviceable to all parties concerned, to bestow some time over it. And therefore I would request that this matter may be postponed for tomorrow.

Mr. C. R. Iyyuni (Trichur-South): I would request that it may be re-committed to the Select Committee.

Mr. A. B. Salem (Mattancheri): Was this point considered by the Select Committee?

Mr. C. A. Kunjunni Raja (Advocate-General): This point was never considered at the Select Committee.

Mr. T. V. Subramania Ayyar (Nemmara): Even according to the Bill originally introduced by me, I wanted retrospective effect to be given and I have mentioned that in both the Objects and Reasons as also in one of the clauses in the Bill. And the House was aware of that. When they agreed to send this Bill to the Select Committee, they have accepted at least the principle of the Bill. I am not bringing this motion as a surprise.

Mr. M. K. Devassy (Adur): May I make a suggestion, Sir? In fact I too happened to be a member of the Select Committee which reported on this Bill. Somehow or other this point was not raised there. I was rather surprised that the Government said like that. If the House has no objection, I suggest that the Bill may be recommitted to the Select Committee.

Mr. C. R. Iyyunni (Trichur-South): I would request that it should be sent back to the Committee.

Mr. President: Why should it be recommitted? I make it clear that the Government has not made its position clear that even if the retrospective character of the Bill is removed, they will accept the Bill. The question is, apart from the retrospective character of the Bill, it aims to fix the rate of interest at 9 per cent in the case of public companies and seven and a half in the case of other transactions whatever their nature be. On that matter Government have got their own doubts. So this is a question of principle on which this House has to make a decision. There is nothing for the Select Committee to consider.

Mr. M. K. Devassy (Adur): I don't mean that. I only want that the Bill be adjourned for consideration tomorrow.

Mr. President: It is a non-official Bill and if the hon'ble members want to take it up to-morrow, I have no objection.

Mr. A. B. Salem (Mattancheri): We oppose.

Mr. President: Has the House any objection to adjourn this Bill for consideration to-morrow?

Mr. V. J. Mathai (Planters): Our point is, we are opposed to the whole principle underlying the Bill. Then, the sooner it goes out of the House, the better.

Mr. President: Mr. T. K. Nayar, do you want an adjournment for the consideration of this Bill?

Mr. T. K. Nayar (Pazhayannur): We have no objection.

Mr. President: If the non-official members are agreeable, the Bill may be taken up to-morrow. Now Mr. Ibrahim will introduce the Cochin Minority Representation Bill.

[House agreed]

The Cochin Minority Representation Bill

Mr. K. M. Ibrahim (Cranganur): I beg to move that the Cochin Minority Representation Bill be read in Council. The uniform support this House has been according to motions demanding communal representation in the past buoys and cheers me in the performance of the duty I am now undertaking.

The Bill has—as the honourable members will be pleased to note—tried to make itself self-explanatory. I venture to refresh the memory of the Hon'ble members by repeating the Objects and Reasons of the Bill. Thus runs the passage:—Restriction of the communal ratio to salaries of hundred maximum appears to be an inconsistent position. In a system of communal representation considerations of efficiency apply whether the salary is hundred or ten thousands. A harmonious and judicious blending of essential efficiency with communal inequality is the universally-recognized rationale of communal representation in public appointments. Dearth of hands from a particular community may happen in the working of our Staff Selection Board even; but that has not prevented the statutory enforcement of particular ratios of rotation to the beneficiaries under the Board. Hence this Bill.

Hon'ble members, I am sure, will be but too glad to recognize the validity of the premises on which this Bill is based. The enactment in a 3-clauses Bill like this can also be easily recited.

Copalan, Narayani and Thilakan predecease A. The property of A shall be divided as follows.— $\frac{2}{5}$ to Govindan; Govindan's children are excluded; $\frac{1}{5}$ to each of the daughters of Copalan; $\frac{1}{4}$ of $\frac{1}{5}$ to Nalini; $\frac{1}{4}$ of $\frac{1}{5}$ to Leela; $\frac{2}{3}$ of $\frac{1}{2}$ of $\frac{1}{5}$ to Sugathan and $\frac{1}{3}$ of $\frac{1}{2}$ of $\frac{1}{5}$ to Sujatha.

(b) Where the intestate has left no lineal descendants—

40. *Where no lineal descendants are left.*—Where the intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows.—

41. *Father's and mother's rights.*—If the intestate's father and mother are living they shall take equal shares of the property. If one of them only is living, he or she shall take the whole.

42. *Where parents are dead leaving lineal descendants of father.*—If the intestate's parents are dead, the property shall be inherited by the lineal descendants of the father in the same manner as it would if the father survived him and died intestate immediately after, leaving no widow.

43. *Right of paternal grand-parents.*—If the intestate's parents are dead, and there are no lineal descendants of the father the property shall go to the paternal grand-parents of the intestate in equal shares. If one of them only is living he or she shall take the whole.

44. *Where paternal grand-parents are dead.*—If the intestate's paternal grand-parents are dead the property shall be inherited by the lineal descendants of the paternal grand-father in the same manner as if the paternal grand-father survived the intestate and died intestate immediately after leaving no widow.

45. *Where intestate left none of the foregoing kindred.*—Where the intestate has left no widow nor any kindred capable of inheriting under the preceding rules, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

46. *Illegitimate children.*—Notwithstanding anything herein contained to the contrary, illegitimate children or their lineal descendants are entitled to inherit the property of their mother, subject to the share which devolves on her husband if any, as if they were legitimate.

APPENDIX III

THE COCHIN USURIOUS LOANS ACT AMENDMENT BILL

As modified by the Select Committee

Preamble.—Whereas it is expedient to amend the Cochin Usurious Loans Act, XXVIII of 1111, it is hereby enacted as follows.—

1. *Short title, extent and commencement.*—(1) This Act may be called the Cochin Usurious Loans (Amendment) Act of 1111.

(2) It extends to the whole of Cochin and shall come into force at once.

2. *Amendment to section 2.*—Insert as section 2 (4) in Act XXVIII of 1111 the following.—

“(4) ‘Public Company’ means any public company as defined in the Indian Companies Act, VII of 1913, or the same as made applicable to Cochin State or in the Companies Act of any Indian State or Foreign Government.”

3. *Amendment to sections 3 and 5.*—In sections 3 (2) (e) and 5 of Act XXVII of 1111 for the figure “12” the following words shall be substituted.—

“Nine in the case of transactions relating to public companies and seven and a half in the case of all other transactions”.

C. J. MATHEW
Secretary to the Council